

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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PAUL DAVIS, )  
Plaintiff )  
v. )  
SUFFOLK COUNTY, SUFFOLK )  
COUNTY SHERIFF'S )  
DEPARTMENT AND ANDREA )  
CABRAL (in her official capacity), )  
Defendants )  
\_\_\_\_\_  
)  
)

Civil Action No. 04-11851-WGY

**AFFIDAVIT OF ATTORNEY JAMES M. DAVIN**

I, James M. Davin, being duly sworn, do hereby depose and state the following to be true to the best of my knowledge and belief:

1. My name is James M. Davin, and I am employed as a Deputy General Counsel for the Suffolk County Sheriff's Department. I have been a member in good standing of the Massachusetts Bar and I represent the defendants in the instant action.
2. On or about January 26, 2005, counsel submitted a Joint Discovery Plan to the Court. The plan included a deadline of July 15, 2005 for the disclosure of expert discovery by plaintiff.
3. The July 15, 2005 deadline for the plaintiff's expert disclosures included all materials, including curriculum vitae and expert reports. This specific issue was explicitly agreed to by counsel through electronic mail.
4. On February 1, 2005 I sent an e-mail to plaintiff's counsel to clarify an issue regarding the expert disclosures. The e-mail read "I received your letter of 1/26/05. Just to clarify one point regarding the expert disclosures, I assume the disclosure includes all materials under the federal rules such as C.V.'s, expert reports, etc., and not just their identities...."
5. On February 2, 2005, I received a response from plaintiff's counsel responding to the above e-mail s. Plaintiff's counsel stated "I agree with your understanding – the disclosure includes all materials and not just expert identities."

6. Plaintiff did not provide any expert disclosures by July 15, 2005.
7. On or about July 27, 2005, plaintiff faxed me the curriculum vitae of Raymond Helgemoe.
8. By letter dated August 11, 2005, I informed plaintiff's counsel of my objection to any attempt to rely on Raymond Helgemoe based on the failure to provide materials within the time limits of the Joint Discovery Plan.
9. On or about September 5, 2005, plaintiff faxed me the report of Raymond Helgemoe, a copy of which is included as Exhibit D to Plaintiff's Opposition to Defendants' Motion for Summary Judgment.

Signed under the pains and penalties of perjury this 5<sup>th</sup> day of October, 2005.

/s/ James M. Davin